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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 CHRISTOPHER KEARNEY, NANCY
18 KEARNEY, CHARLES MOORE, and
19 SHARI MOORE,

20 Plaintiffs,

21 v.

22 HYUNDAI MOTOR AMERICA,

23 Defendant.

No. SACV09-01298 JST (MLGx)

**SUPPLEMENTAL DECLARATION
OF ROBERT B. CAREY IN
SUPPORT OF MOTION FOR AN
AWARD OF ATTORNEYS' FEES,
EXPENSES, AND INCENTIVE
AWARD PAYMENTS, PURSUANT
TO THE COURT'S JUNE 7, 2013
ORDER**

CLASS ACTION

Hon. Josephine Staton Tucker

1 I, Robert B. Carey, declare:

2 1. I am an attorney admitted *pro hac vice* before this Court. I am a partner
3 at the law firm of Hagens Berman Sobol Shapiro LLP (“Hagens Berman”) and
4 counsel for plaintiffs Christopher Kearney, Nancy Kearney, Charles Moore, and
5 Shari Moore. Steve W. Berman¹ and I² were appointed by the Court as settlement
6 class counsel (“Class Counsel”) in this matter on December 17, 2012. (Dkt. 91 at 12,
7 25-26.) I am submitting this supplemental declaration in support of Class Counsel’s
8 application for an award of attorneys’ fees, expenses, and incentive awards in
9 connection with services rendered in the above-entitled action to provide an update
10 regarding attorneys’ fees to the Court pursuant to the Court’s June 7, 2013 Order.
11 (Dkt. 129.)
12

13
14 2. On August 28, 2012, the parties participated in a mediation session with
15 the Honorable Stephen J. Sundvold (Ret.) in Orange, California, regarding an award
16 of attorneys’ fees and expenses for Class Counsel—the mediation took place *after*
17 the Settlement Agreement was signed. Based on Judge Sundvold’s “mediator’s
18 recommendation” and additional discussion between the parties, HMA agreed to pay
19 Class Counsel a total of \$993,000.00 in attorneys’ fees and expenses and \$2,500 to
20

21
22 ¹ See Declaration of Steve W. Berman regarding Adequacy of Counsel to
Represent Class (Dkt. 88).

23 ² See Declarations of Robert B. Carey in support of (i) Joint Motion for
24 Preliminary Approval of Class Settlement (Dkt. 73-3); (ii) Supplemental Brief
25 regarding Adequacy of Counsel to Represent Class (Dkt. 79-1); (iii) Motion for
26 Certification of a Settlement Class (Dkt. 81); (iv) Adequacy of Counsel to Represent
27 Class (Dkt. 87); (v) Joint Motion for Final Approval of Class Settlement (Dkt. 96);
28 (vi) Motion for an Award of Attorneys’ Fees, Expenses, and Incentive Award
Payments (Dkt. 97-4, 131-3); (vii) Plaintiffs’ Supplemental Memorandum of Law
regarding Class Members’ Support of the Settlement (Dkt. 120, 124); and
(viii) Plaintiffs’ Supplemental Brief in Response to Court’s Order regarding *In re HP
Inkjet Printer Litigation* (Dkt. 127).

each of the four Class Representatives as an incentive award for their time and effort in participating in the litigation—the incentive awards are not included in the fee-and-expense award.

3. The total number of hours spent on this Litigation by Class Counsel is 1864.80 with another 535 hours anticipated to reach the end of the Litigation. These 535 hours comprise approximately 212 hours of attorney time and 323 hours of paralegal time (the parties estimate Class Counsel will need the equivalent of three full-time paralegals for three months to attend to the post-settlement aspects of the litigation). The total lodestar amount for attorney/professional time based on the firm's hourly rate is currently \$776,707.50, with the total final lodestar amount expected to be \$922,605.00. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:

NAME	RATE	HOURS	AMOUNT
Leonard Aragon	460.00	4.00	\$ 1,840.00
Camille Bass	375.00	547.40	205,275.00
Steve Berman	800.00	28.80	23,040.00
Jeniphr Breckenridge	500.00	23.20	11,600.00
Elaine Byszewski	500.00	5.10	2,550.00
Rob Carey	650.00	368.20	239,330.00
Jennifer Conte	150.00	0.50	75.00
John DeStefano	395.00	20.50	8,097.50

NAME	RATE	HOURS	AMOUNT
Suzanne Ferris	150.00	30.90	4,635.00
Carrie Flexer	190.00	3.20	608.00
Audrey Froehlich	150.00	157.70	23,655.00
Lee Gordon	575.00	1.30	747.50
Lisa Hasselman	550.00	136.70	75,185.00
Cindy Johnson	150.00	98.30	14,745.00
Larry Kunzler	170.00	1.50	255.00
Brian Miller	150.00	10.30	1,545.00
Chris O'Hara	500.00	1.10	550.00
Georgia O'Neill	150.00	3.30	495.00
Marci Perkins	150.00	10.30	1,545.00
Andy St. John	340.00	0.30	102.00
Lauren Uhler	150.00	12.10	1,815.00
Etta Walters	325.00	88.00	28,600.00
Ellen Weber	150.00	1.00	150.00
Amy Wilkins	425.00	305.10	129,667.50
Aniela Wisniewski	100.00	6.00	600.00

4. My firm incurred a total of \$47,419.10 in expenses in connection with the prosecution of this Litigation. They are broken down as follows:

EXPENSE	AMOUNT
LexisNexis legal research	\$ 2,186.18
Photocopies	407.66
Messenger/Process Service	2,310.79
UPS/FedEx	145.10
Certificates of Good Standing	64.00
Travel (airfare, hotel, etc.)	11,281.56
<i>Pro hac vice</i> filing fees	875.00
Mediation	3,132.50
Electronic discovery	11,000.00
Contract lawyers	7,890.00
Investigation	7,920.96
Fax	8.00
Long distance phone	45.79
Pacer	151.56
Total	\$47,419.10

Class Counsel estimates that it will expend approximately \$10,500.00 more in costs before the close of the Litigation for items such as phone calls and correspondence with Class Members regarding participation in the potential refund/exchange program and arbitration, and photocopies.

1 5. The expenses pertaining to this case are reflected in the books and
2 records of this firm. These books and records are prepared from expense vouchers,
3 check records, and other documents and are an accurate record of the expenses.

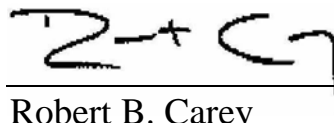
4 6. Attached to this declaration as Exhibit A is a true and correct copy of
5 Class Counsel's billing statement for the fees and costs expended in this Litigation
6 up to and including June 19, 2013.

7 7. If the Settlement is granted final approval, Class Counsel and opposing
8 counsel will have to attend to the issues that will arise during administration of the
9 Settlement, field inquiries from Class Members regarding the Settlement, and walk
10 Class Members through the buyback/exchange and arbitration processes. Class
11 Counsel estimates an additional 535 hours necessary to conclude the Litigation. The
12 estimated total lodestar and cost amount to conclude this Litigation is \$980,460.71.
13

14 8. If the Court opts to award a multiplier instead of Class Counsel's
15 expected final lodestar, that multiplier would likely be between 1.2 and 1.3, which is
16 well below the 3-4 multipliers commonly approved in this Circuit for similar cases.
17 *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002); *Van Vranken*
18 *v. Atlantic Richfield Co.*, 901 F. Supp. 294, 298 (N.D. Cal. 1995). (Dkt. 97-1 at 3, 17,
19 20-22; 131 at 3, 17, 21-22.)
20
21

22 I declare under penalty of perjury under the laws of the United States that the
23 foregoing is true and correct.
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Executed this 20th day of June, 2013 in Phoenix, Arizona.


Robert B. Carey